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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/799,842

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Gale White

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EXAMINER

MENDEZ, MANUEL A

ART UNIT

PAPER NUMBER

3763

NOTIFICATION DATE

DELIVERY MODE

03/28/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/799,842	Applicant(s) WHITE ET AL.	
	Examiner Manuel A. Mendez	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-30 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. **Claims 1-24** , drawn to an IV medication infusion pump for use with a hospital information management system (HIMS), said IV pump comprising: (a) pump operation circuitry coupled with said infusion pump for monitoring pre-selected characteristics of current infusion pumping operation, wherein said characteristics of current infusion pumping operation are selected from among rate of pumping, pumping pressure, start time, time of pumping, volume of pumping, dosage, size of tubing, speed of pumping motor, door open, manual programming mode, automatic programming mode, start-up testing, dosage of infusion and bolus of infusion, nurse identification, unique patient identification, a drug name, total volume of infusion, current date, current time, maximum dose limit, minimum dose limit, minimum volume to be infused, maximum volume to be infused, patient weight, and patient height; (b) a wireless signal transmitter connected to said pump operation circuitry for transmitting at least one wireless signal representing said pre-selected current pumping operation characteristics; and (c) a receiver capable of receiving said at least one wireless signal representing said current pumping operation characteristics, said receiver connected to said hospital management system (HIMS) for receiving said current pumping

operation characteristics represented by said at least one wireless signal from said IV pump, classified in class 604, subclass 67.

- II. **Claims 25-29**, drawn to a wireless communication system from an IV medication infusion pump to a hospital information management system (HIMS) comprising: (a) pump operation circuitry coupled with said IV medication infusion pump for monitoring pre-selected characteristics of current infusion pumping operation, wherein said characteristics of current infusion pumping operation are selected from among rate of pumping, pumping pressure, start time, time of pumping, volume of pumping, dosage, size of tubing, speed of pumping motor, door open, manual programming mode, automatic programming mode, start-up testing, dosage of infusion and bolus of infusion, nurse identification, unique patient identification, a drug name, total volume of infusion, current date, current time, maximum dose limit, minimum dose limit, minimum volume to be infused, maximum volume to be infused, patient weight, and patient height; (b) a medication order transmitter capable of receiving input of a doctor's order for patient medication to be administered with an IV pump and capable of wireless transmission of an order signal representing said doctor's order for said patient medication for IV administration comprising at least one pumping operation parameter corresponding to said doctor's input order; (c) a wireless signal pump transmitter connected to said pump operation circuitry for transmitting at least one wireless signal representing

said pre-selected monitored current pumping operation characteristics; (d) an HIMS receiver capable of receiving said at least one wireless signal representing said pumping operation characteristics, said receiver connected to said hospital management system (HIMS) for receiving said current pumping operation characteristics represented by said at least one wireless signal from said IV pump, said HIMS receiver further capable of receiving said signal representing said doctor's order; and (e) wherein said HIMS further comprises programming for receiving, storing and comparing said pump signal with said signal representing said doctor's order to determine whether said medication is delivered to said patient by operation of said pump according to said doctor's order, classified in class 604, subclass 65.

- III. **Claim 30**, drawn to a wireless communication system from an IV medication infusion pump to a hospital information management system (HIMS) comprising: (a) a medication order transmitter capable of receiving input of a doctor's order for patient medication to be administered with an IV pump and capable of wireless transmission of a first signal representing the input order for said patient medication for IV administration; (b) an IV pump having pump operation circuitry for monitoring pre-selected characteristics of pump operation and a transmitter connected to said pump operation circuitry for transmitting a second wireless signal representing said pre-selected pump operation characteristics indicative of

IV administration of medication to a patient, wherein said characteristics of current infusion pumping operation are selected from among rate of pumping, pumping pressure, start time, time of pumping, volume of pumping, dosage, size of tubing, speed of pumping motor, door open, manual programming mode, automatic programming mode, start-up testing, dosage of infusion and bolus of infusion, nurse identification, unique patient identification, a drug name, total volume of infusion, current date, current time, maximum dose limit, minimum dose limit, minimum volume to be infused, maximum volume to be infused, patient weight, and patient height; (c) a receiver for receiving said first signal and for providing said order for patient medication in human readable form for the preparation of said ordered patient medication for IV pump administration; and (d) a hospital information system including a receiver capable of receiving said first and said second signals and a computer processor capable of storing said information represented by said signals, capable of comparing said doctor's order for patient medication to said IV pump delivery of medication to a patient and for comparing said order to said delivery characteristics to determine whether medication delivery was as ordered by the doctor and for displaying said order and said pump operation characteristics and the results of the comparison thereof, classified in class 128, subclass 903.

The inventions are distinct, each from the other because of the following reasons:

Inventions I-III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, the subcombinations have separate utility in view of the structural differences as evidenced by Groups I-III above. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;

- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected invention.**

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manuel A. Mendez whose telephone number is 571-272-4962. The examiner can normally be reached on 0730-1800 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Nicholas D. Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Manuel A. Mendez/

Primary Examiner, Art Unit 3763

Manuel A. Mendez
Primary Examiner
Art Unit 3763

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